

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION**

**MARY GREEN**  
**for RICKY C. GREEN (Deceased),**

**Plaintiff,**

**v.**

**JO ANNE B. BARNHART,**  
**Commissioner of Social Security,**

**Defendant.**

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)  
) **No. 2:05cv0081**  
) **Judge Thomas Wiseman**  
) **Magistrate Judge Knowles**  
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**ORDER**

This case was referred to United States Magistrate Judge E. Clifton Knowles pursuant to 28 U.S.C. § 636(b)(1)(B). Thereafter, Plaintiff Mary Green, by and for her deceased husband Ricky C. Green, filed a motion for Judgment on the Administrative Record seeking entry of judgment in favor of Mr. Green on the grounds that the Administrative Law Judge's determination was not supported by substantial evidence. (Doc. No. 13.) The Commissioner of Social Security ("Commissioner" or "Defendant") filed a response opposing Plaintiff's motion. (Doc. No. 20.) Magistrate Judge Knowles filed a Report and Recommendation ("R&R") (Doc. No. 21) recommending that the Plaintiff's motion be denied and that the decision of the Commissioner be affirmed. Plaintiff has filed a timely objection to the Magistrate Judge's R&R. (Doc. No. 22.)

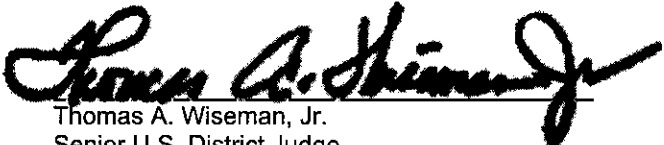
Plaintiff objects to the Magistrate Judge's R&R on the grounds that the Administrative Law Judge ("ALJ") erred both in discounting the opinion of claimant Ricky Green's treating physician and in his consideration of Plaintiff's own testimony as claimant's wife. Plaintiff asserts generally that as a result of these errors, Defendant's decision is not supported by substantial evidence. Defendant Commissioner filed no response to Plaintiff's objections.

For the reasons explained in the accompanying Memorandum Opinion, the Court hereby **ADOPTS IN PART AND REJECTS IN PART** the Magistrate's R&R. The Court finds that the Plaintiff's second objection pertaining to the ALJ's consideration of her own testimony is without merit. However, the Court also finds Plaintiff's objection relating to the ALJ's explanation of his rationale for giving more weight to a non-treating physician's opinion over that of Mr. Green's treating physician to be meritorious. Accordingly, the

Court hereby **GRANTS** Plaintiff's Motion for Judgment on the Administrative Record (Doc. No. 12). The Commissioner's decision denying benefits is **REVERSED** and this matter **REMANDED** for further proceedings consistent with this opinion.

It is so **ORDERED**.

This is a final judgment for purposes of Fed. R. Civ. P. 58.



Thomas A. Wiseman, Jr.  
Senior U.S. District Judge